

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

BLAKE L. KIRVIN,

Defendant.

NO. CR24-019 RAJ

CR21-002 RAJ

UNITED STATES SENTENCING
AND SUPERVISED RELEASE
DISPOSITION MEMORANDUM

Blake Kirvin violated supervision by getting caught with a loaded gun with a round in the chamber and concealing his new arrest from Probation and the Court. As a result of his conduct, the United States asks for 37 months' custody in CR24-019 and revocation with 12 months custody and termination of supervised release in CR21-002.

I. INTRODUCTION

Under cause number CR24-019, Blake Kirvin pled guilty to one count of being a Felon in Possession of Firearm in violation of Title 18, United States Code, Section 922(g)(1). Under cause number CR21-002, Kirvin will admit to his supervised release violations. This is Kirvin's fourth federal conviction for being a felon in possession of a firearm, and fifth overall conviction for such an offense. The United States respectfully

1 requests that the Court impose a total sentence of 37 months imprisonment (37 months
2 under CR24-019, concurrent with 12 months under CR21-002).

3 **II. BACKGROUND**

4 **A. Offense Conduct**

5 On the evening of April 11, 2023, Kent Police Department officers responded to a
6 welfare check at an apartment complex in Kent, Washington. The reporting witness, a
7 private security guard patrolling the complex, reported a male passed out in a running
8 vehicle with a firearm sitting in his lap. Officers responded and identified Kirvin as the
9 driver and sole passenger in the vehicle and determined he had an outstanding warrant
10 related to his Assault 2nd Degree and Unlawful Possession of a Firearm 2nd Degree case
11 pending in King County Superior Court (22-1-01437-3 SEA).

12 Officers executed a high-risk vehicle stop, pinning Kirvin's vehicle. Kent Police
13 ordered Kirvin to put his hands in the air, which he did. However, Kirvin dropped his
14 hands several times as he sat in the vehicle. Eventually, Kirvin exited the vehicle and was
15 detained. Officers found a clear plastic bag of a white powder substance on his person.
16 Officers also found a black Ruger firearm magazine loaded with .22 caliber rounds and
17 11 loose .22 caliber rounds in a sock within Kirvin's jacket pocket.

18 After confirming Kirvin was a convicted felon, officers obtained a search warrant
19 for the vehicle. During the vehicle search, Kent police found a Glock 17 semi-automatic
20 pistol located under the driver's seat. The Glock had an extended magazine attached to it
21 capable of holding 31 rounds, with 26 rounds in the magazine and a round in the
22 chamber.

23 **B. Procedural History**

24 On April 11, 2023, Kirvin was arrested by Kent Police for the events described in
25 the previous paragraph. The case was referred to the King County Prosecutor's Office,
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1 who filed charges in August 2023. On August 28, 2023, the Court issued a warrant in
2 CR21-002 for Kirvin's arrest for the following supervised release violations:

- 3 1. Committing the crime of felon in possession of a firearm 4/11/23
- 4 2. Failing to answer questions truthfully 8/24/23
- 5 3. Failing to disclose an arrest within 72 hours of arrest 8/24/23

6 On September 6, 2023, Kirvin made his initial appearance in federal court on the
7 supervised release violations and was detained. On January 30, 2024, Kirvin pled guilty
8 in CR24-019 to an Information alleging one count of Felon in Possession of a Firearm.

9 **A. Statutory Penalties**

10 Felon in Possession of a Firearm is punishable by a term of imprisonment of up
11 to fifteen (15) years, a fine of up to two hundred and fifty thousand dollars (\$250,000), a
12 period of supervision following release from prison of no more than three (3) years, and a
13 special assessment of one hundred dollars (\$100).

14 **II. SENTENCING GUIDELINES CALCULATIONS AS TO NEW OFFENSE**

15 The United States agrees with the United States Probation Office's determination
16 that Kirvin's total offense level, after acceptance of responsibility, is 17. The government
17 also agrees that Kirvin falls in Criminal History Category IV. Consequently, Kirvin's
18 sentencing guidelines range is 37 to 46 months on his new offense.

19 **III. SUPERVISED RELEASE VIOLATION GUIDELINES CALCULATIONS**

20 The government agrees with United States Probation's calculation that Kirvin has
21 committed a Grade B violation and has a criminal history category of IV, with a range of
22 imprisonment of 12 to 18 months.

23 Pursuant to the Plea Agreement entered in CR24-019, Kirvin will admit to the
24 violations and submit a jointly agreed sentence of 12 months imprisonment upon
25 revocation.
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V. SENTENCING RECOMMENDATION

The United States respectfully requests that the Court sentence the defendant to a total of 37 months of confinement (37 months under CR24-019, concurrent with 12 months under CR21-002), followed by a 3-year term of supervised release. A review of pertinent Section 18 U.S.C. §§ 3553(a) sentencing factors, below, supports the recommended sentence.

A. Nature and Circumstances, and Seriousness of the Offense

The nature and circumstances of the offense are concerning. Kirvin was asleep in a running car with a high capacity firearm, with an extended magazine and a round in the chamber, in his lap. Kirvin was prohibited from possessing firearms—having previously been convicted multiple times in state and federal court for doing so—and yet possessed a gun for the *fifth* time. Not only did he possess a gun, he had a semi-automatic Glock with an extended magazine capable of holding 31 rounds, loaded with 26 rounds. He also possessed a black Ruger handgun magazine along with additional loose ammunition. Kirvin's possession of even one firearm is cause for concern—that he had a weapon capable of inflicting mass injury with a high capacity magazine demonstrates Kirvin has no regard for this Court's orders nor the risks possessing a firearm poses to his community and himself.

B. History and Characteristics of the Defendant

Kirvin has multiple prior convictions for unlawfully possessing a firearm, leaving no doubt that he is well aware that his firearm possession is unlawful. He has a 2011 adult state conviction for unlawful possession of a firearm in the second degree. PSR ¶ 28.

In 2015, Kirvin was convicted in federal court of two counts of felon in possession of a firearm. PSR ¶ 31. In that case, Kirvin possessed a firearm when he was involved in a gang-related shootout in which at least one woman was shot and more than 80 spent shell casings were recovered. As he fled from the scene, Kirvin picked up another firearm

1 from the ground because it was a “free gun.” Then, after being arrested for the above-
2 incident and released, Kirvin again chose to possess a handgun. Moreover, he did so
3 while dealing drugs in downtown Seattle. In light of the limited prior time he served, the
4 government refrained from charging Possession of a Firearm in Furtherance of Drug
5 Trafficking charge, sparing Kirvin the mandatory minimum 60-month sentence. He
6 instead received a sentence of 36 months. PSR ¶ 31.

7 In 2021, Kirvin was, again, convicted of felon in possession of a firearm in federal
8 court and received a sentence of 18 months consecutive to 6 months imposed for his
9 supervised release violation on CR15-165 RAJ. The circumstances leading to this
10 conviction were uncannily similar to those in the present case. In the early morning hours
11 in July of 2020, officers responded to a report of a man passed out behind the wheel of
12 his vehicle. Officers contacted Kirvin, who was the sole occupant of the vehicle and
13 seated in the driver’s seat. As officers informed Kirvin why he was being contacted, they
14 observed the handle of a gun sticking out of his pants pocket. When asked if he had a
15 concealed carry permit, Kirvin advised he did not. When Kirvin stepped out of the
16 vehicle, officers secured the Taurus .44 caliber revolver from his person. Officers ran
17 Kirvin’s name and discovered an outstanding federal warrant (issued under CR15-165)
18 and he was placed under arrest.

19 Overall, Kirvin has a lengthy history with the criminal justice system and with the
20 consequences of his illegal firearm possession, in particular. Based on this history, Kirvin
21 is well aware of the danger firearms pose to others who are shot. He also knows that such
22 possession can and will land him in prison for years should he be caught. Yet, even with
23 the support of Probation while on supervision, Kirvin cannot stop committing new
24 crimes.

25 As outlined in the PSR, Kirvin history presents some mitigating information at
26 sentencing. Kirvin suffers from PTSD as a result of his being shot in the face. PSR ¶ 49.
27 Kirvin also suffered an injury to his hand when a firework exploded in his hand. PSR ¶

47. He is otherwise in good physical health. PSR ¶ 47. Kirvin suffers from lengthy and serious substance abuse issues. After attending Valley Cities treatment facility after his release from custody in 2022, Kirvin relapsed and admits to abusing spice, alcohol, and marijuana. PSR ¶ 59. Though he did not graduate high school, Kirvin obtained his GED while incarcerated at the Federal Detention Center in Sheridan, Oregon in 2016. PSR ¶ 61, 62. He has training as a forklift operator. PSR ¶ 62. Kirvin has an extremely limited employment history. PSR ¶ 65 – 67.

C. Government's Proposed Sentence: 37 months

The government respectfully requests the Court sentence Kirvin to a term of 37 months followed by three (3) years of supervised release.

In Kirvin's 2015 Felon in Possession case, he received a sentence of 36 months. His guidelines range in that case was 33 to 41 months, given he possessed three firearms, possessed a stolen firearm, and possessed a firearm in connection with another felony offense.

In Kirvin's 2021 Felon in Possession case, Kirvin's guidelines sentencing range after acceptance of responsibility was 21 to 27 months. The government requested a high-end sentence of 27 months, to run consecutive to the requested 9-month sentence on his 2015 supervised release case. Kirvin ultimately received an 18-month sentence that ran consecutive to his 6-month sentence on his 2015 supervised release revocation, for a total sentence of 24 months imprisonment.

Now, once again, Kirvin appears before this Court for illegally possessing a firearm. Despite representing to this Court that he was doing well on supervised release, Kirvin continued to violate the law and this Court's orders by possessing a modified firearm capable of inflicting mass injury and hiding this new law violation from his Probation officer. Prior interventions by Probation, this Court, and substance and mental health treatment providers have fallen on deaf ears, and an extended term of

1 imprisonment is necessary to protect the community and Kirvin from himself as he is
2 unable and unwilling to let go of his penchant for firearms.

3 The fact that Kirvin has been on the receiving end of gun violence himself should
4 have placed him on notice of the risks associated with possessing a firearm and the
5 potential life-altering harm that such a weapon can inflict. Kirvin's *several* prior
6 convictions and the previous sentences imposed by this Court should have made it
7 unequivocally clear that he would again be sent to prison if caught with a firearm. That
8 these facts have not deterred Kirvin from possessing a firearm is alarming.

9 The requested low-end guidelines sentence in CR24-019 is appropriate and
10 necessary to reflect the seriousness of the offense, to promote respect for the law, and
11 provide just punishment for the offense while protecting the public from further crimes of
12 Kirvin and, hopefully, affording adequate deterrence to criminal conduct. Kirvin's prior
13 sentence of 36 months (CR15-165) and 18 months (CR21-002) clearly did not
14 accomplish these goals with respect to Kirvin's cognitions and behavior when
15 encountering firearms. Kirvin has struggled while on supervision. With a fifth conviction
16 for felon in possession of a firearm, and a sixth anticipated in King County Superior
17 Court, Kirvin has exhausted the Court's attempted interventions. Reasonable alternatives
18 to imprisonment are simply not sufficient here.

19 The government acknowledges that, over the years, Kirvin has made strides
20 towards bettering himself and assimilating to the community. He received his GED while
21 incarcerated and underwent mental health and substance abuse treatment upon his release
22 before failing to follow through with treatment and ultimately relapsing.

23 The government is requesting that the time imposed on the new criminal charge
24 run concurrent with the time imposed for the supervised release violations to account for
25 the fact that Kirvin's supervised released violations are solely related to his new criminal
26 charge, and there are no pending violations related to failure to report to Probation
27 generally or substance abuse. Further, the request for concurrent time considers the

1 additional time Kirvin will serve at King County based on the global resolution in this
 2 case. By law, Kirvin's sentence in King County Superior Court cannot run concurrent to
 3 his supervised release sentence ordered by this Court. RCW 9.94A.589.

4 VI. CONCLUSION

5 For all of the reasons set forth above, the government respectfully requests the
 6 Court sentence Kirvin to 37 months incarceration (37 months under CR42-019
 7 concurrent with 12 months under CR21-002), followed by three (3) years of supervised
 8 release under CR24-019 RAJ. The government requests that supervision be terminated
 9 under CR21-002 RAJ. Last, the government also asks the Court to impose the conditions
 10 set forth in the Presentence Report on behalf of United States Probation.

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 12 DATED this 24th day of April, 2024.

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 14 Respectfully submitted,

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